

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD )  
Plaintiff, )  
v. )  
TIMOTHY CALLAHAN, )  
FRANCIS M. ROACHE, )  
PAUL MURPHY, )  
RICHARD WALSH, and )  
THE CITY OF BOSTON, )  
Defendants. )  
\_\_\_\_\_  
C.A. NO.: 04-11193NG

**SUPPLEMENTAL PROPOSED JURY INSTRUCTION OF DEFENDANT  
TIMOTHY CALLAHAN – PROXIMATE CAUSE**

**REQUEST NO. 1**

*Review of Prior Jury's Deliberations*

As you have learned, you will have before you the trial transcript from the 1989 criminal trial that is at issue in this case. You are to presume that the jury empaneled in 1989, and the Court conducting that trial, acted according to the law, and reasonably, conscientiously and impartially applied the legal standards that governed their decision.

You must take the unaffected and unchallenged findings as a given, and you must consider the totality of the evidence presented to that jury, in making your assessment of whether the evidence challenged by Plaintiff (if indeed you find that the evidence he identifies was withheld or manufactured) was a substantial factor in causing his conviction.

*Strickland v. Washington*, 466 U.S. 668 (1984)

**REQUEST NO. 2**

Plaintiff has the burden of proving that the constitutional violation you have identified is the proximate cause of the damages he has sustained – in other words, he must prove, by a preponderance of the evidence, that the failure to disclose that Defendant Callahan provided a sum of money to Ricky Evans was a substantial factor in causing his conviction.

*Gutierrez-Rodriguez v. Cartagena*, 882 F.2d 553, 559 (1<sup>st</sup> Cir. 1989)  
*Maldonado Santiago v. Velasquez Garcia*, 821 F.2d 822, 831 (1<sup>st</sup> Cir. 1987)

**Defendant,  
TIMOTHY CALLAHAN,  
By his attorney,**

/s/ Mary Jo Harris

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DATED: April 14, 2008

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 14th day of April, 2008, I electronically filed with within document with the Clerk of the United States District Court for the District of Massachusetts, using the CM/ECF System. The following participants have received notice electronically:

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**For Plaintiff Shawn Drumgold,**

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**For Defendant, City of Boston**

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**For Defendants City of Boston and**

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